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8	BEFORE THE BOARD OF REGISTERED NURSING		
- {	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
9	STATE OF CALIFORNIA		
10	In the Matter of the Accusation Against: Case No. 2013 - 311		
	MARIA MARITES ASPIRAS ROSARIO		
12	3436 Bernadette Ct, Unit A West Covina, CA 91792 A C C U S A T I O N		
14	Registered Nurse License No. 764728		
15	Respondent.		
ĺ	Complement allowers		
16	Complainant alleges:		
17	<u>PARTIES</u>		
18	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her		
19	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
20	Consumer Affairs.		
21	2. On or about December 28, 2009, the Board of Registered Nursing issued Registered		
22	Nurse License Number 764728 to Maria Marites Aspiras Rosario (Respondent). The Registered		
23	Nurse License was in full force and effect at all times relevant to the charges brought herein and		
24	will expire on May 31, 2013, unless renewed.		
25	<u>JURISDICTION</u>		
26	3. This Accusation is brought before the Board of Registered Nursing (Board),		
27	Department of Consumer Affairs, under the authority of the following laws. All section		
28	references are to the Business and Professions Code unless otherwise indicated.		
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STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
 - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
- "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.
- 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
 - 8. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

9. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

10. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

DRUG CLASSIFICATION

11. Ativan, a brand name for Lorazepam, a benzodiazepine derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(16), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

- 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) in that on or around November 17, 2010, she committed gross negligence while employed as a registered nurse case manager at Heartland Hospice (Heartland) as follows:
- a. Respondent ordered a licensed vocational nurse (LVN) to take Ativan from another patient's comfort kit to administer to patient L.Y. The LVN complied with the instruction and was subsequently reprimanded by Heartland.
- b. Respondent ordered a registered nurse (RN) to take Ativan from another patient's comfort kit to administer to patient L.Y. The RN refused to comply with the instruction and reported the incident to her supervisor.

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SECOND CAUSE FOR DISCIPLINE

(Incompetence)

Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) in that on or around November 17, 2010, she committed acts of incompetence. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

Respondent is subject to disciplinary action under section 2761, subdivision (a) in that on or around November 17, 2010, she committed acts of unprofessional conduct by violating community standards as well as those of her employer. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 764728, issued to Maria Marites Aspiras Rosario;
- 2. Ordering Maria Marites Aspiras Rosario to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: (1610BER 24, 2012

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant

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